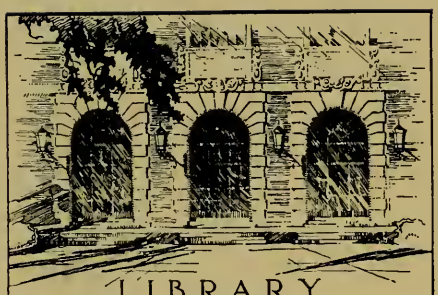

The Relation of

Church and Parliament

in regard to

Ecclesiastical Discipline.

BY

WALTER HOWARD FRERE,

Of the Community of the Resurrection.

A. R. MOWBRAY & CO.,

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I.

The delicate adjustment of the relations between Church and State is at all times a difficult task, and one that is very liable to the mishandling that comes from ignorance or prejudice or from confusion of thought. There come periods in history when these relations are barely, if at all, matters of discussion or of public interest; and again there come times of disputation, strain, and tension, when they excite great interest, and stir some of the strongest passions of man. Those times of tension and discussion are not by any means necessarily times also of change or readjustment; indeed, some of the chief changes and developments in the relations of Church and State have come about in the torpid periods when alterations excited no interest and met with no opposition, or when slackness and decadence have been allowed to effect an unobserved transformation. But if tension is not necessarily the herald of change, it calls upon thoughtful people to clear their minds, to brush up their facts, to scrutinize their terminology, and to verify their postulates.

A wave of dissatisfaction with the relations between Church and State has for some time now been passing over Europe, and a state of tension in more or less degree is the result. The prejudices called Clericalism

and Anti-clericalism have long been powerful factors in the public life of France; of late they seem to have crossed the Channel. It may very well be doubted by sober persons, who have some acquaintance with the facts of the case, whether the imposing proportions to which they pretend are not somewhat factitious.

Among the working classes in large towns anti-clerical feeling has been steadily on the decrease these fifty years. In country districts it has undoubtedly increased, and principally for the reason that the parson, being commonly associated with the squire, has had his share of the feeling of mistrust and suspicion with which the decaying ranks of country labourers regard their present magnates. Among the richer classes the power of tradition in religion is departing or departed; many still practise religion, while others, who have no conviction, no longer feel themselves bound by a traditional *comme il faut*. In such circles anti-clericalism has multiplied, for there has been a growing divergence. There was an old compact between the well-to-do laity and their brothers, cousins, and neighbours of the clergy, that the laity would do a little for God, provided they were not asked for too much. Now both parties have, to a large extent, receded from that compact. The laity are falling more and more, as in France, into two camps, and becoming either convincedly religious or frankly irreligious; and the latter will no longer for propriety's sake pay a minimum homage to God. Meanwhile the clergy are ceasing to be merely well-meaning persons with gentlemanly instincts and philanthropic leanings, and are becoming professional men, trained to their sacred calling as a doctor or sailor is trained. The result of this, where the training fails, is to produce clericalism, and in its wake anti-clericalism; and, even where it succeeds

and makes men efficient priests, it is likely to produce anti-clericalism, for there are many who regard all clerical efficiency as a thing to be resented. From all causes, therefore, it is no surprise to find these prejudices on the increase in the richer classes.

With the middle classes the case is different; neither sentiment nor tradition nor conviction has succeeded in retaining the bulk of them in the limits of the English Church. It was Nonconformity that moved them in the seventeenth century, and Wesley that won them in the eighteenth; and they still remain Nonconformist at heart, either (in the original sense of the word) as churchmen who still cling to the Church while trying to make out her doctrine and discipline to be other than they are; or else frankly as separatists who have inherited a venerable tradition of alienation.

The original causes of such separation were widely different: some left the Church sadly, as a mother who had proved too unnatural to care for them; others defiantly, as a stepmother, who, as they grew up, had ceased to have any longer the power to persecute; others, as the Scarlet Woman, only one shade lighter than Rome herself, and therefore to be shunned with much drawing aside of skirts and shaking off of dust.

So again the original tenets of those who separated were sharply at variance; for example, the Independent and the Presbyterian, when they had united to abolish the Church, had no further point of concord left, and began to demolish one another. Now all this is changed: the distinctive doctrines of the Churches have fallen into the background, and the Free Church Councils are united, not merely by their common animosity, but also by a positive refusal of all alliance with the State, a down grade agreement on a vanishing

residuum of Christian belief, and a well-intentioned but somewhat inconsistent eagerness to propagate at the expense of the State an undogmatic form of religion. All this is a tremendous change of front, but it does not involve any increase of anti-clerical feeling: at the base of all nonconformity there lie several revulsions of feeling—an exaggerated hatred of Rome, an unreasonable jealousy on behalf of the Bible (or of parts of it), and a repudiation of the historic teaching and discipline of the Catholic Church in the supposed interests of the individual conscience. No one can doubt therefore that the feeling of the large nonconformist majority of the middle classes is hot against the claims, and hotter still against the pretensions, of the Church as a teacher and guide, and of the clergy as her officers; but the temperature has fallen rather than risen, and the ritualist priestling in his biretta or his chasuble does not now stir depths of passion at all comparable to those which were roused by his remoter ancestor, the reading minister in his cassock and square cap, or even by his grandfather that preached in a surplice.

The result of this analysis is to shew two things: first, that though anti-clerical feeling is strong, its increase among the richer classes is more than balanced by the decrease elsewhere; secondly, that some part, at any rate, of its increase is due, not to unjustifiable pretensions, but to increased efficiency on the part of the Church at large, and of the clergy in particular.

This is not to say that the wave of dissatisfaction and the state of tension do not exist; undoubtedly they exist, but it is rather in the small world of journalism and of politics than in the larger world of religion. In this small area they have reached a

state which may be described as a crisis, or, more accurately, as a panic; and the reason of this is not far to seek. Nothing is so liable to induce panic as for a man to find himself called upon to handle strong forces which he does not understand. Religious controversy is for this reason, and very rightly, the pet aversion of the politician and the journalist; he steers clear of it as long as he can, and handles it only when panic seizes him and deprives him of his better judgment. This is what has been going on of late, and is still with us; it is a common feature of history. Should any one doubt this, let him look into the past, and survey the controversies of the last century as reflected, or caricatured, in the contemporary press, and recall the legislation that resulted therefrom; he will there find a convincing instance of the truth of the general statement, and will rise from the enquiry with a more trustworthy judgment of the present state of affairs.

The existing House of Commons has lived the greater part of its life on the verge of panic, and its declining years seem hardly likely to be more staid in this respect. True, it is growing increasingly conscious of its inability to handle these questions; but unfortunately this consciousness may as easily lead to the panic of interference, as to the wisdom which declines improper tasks. Thus the real matter of anxiety in the ecclesiastical outlook is, not either the internal or the external relations of the Church itself, but the behaviour of the House of Commons now goaded by journalists and Orange wire-pullers to intervene in circumstances where it has neither the right nor the capacity for intervention.

If in this time of tension there can be some reconsideration of the terms used and misused in the

discussion, some recalling of elementary principles of the relation of Church and State, some brushing up of historical evidence, and some exposure of popular misconceptions, much good may be done, a sounder public opinion may be formed, reasonable remedies may be found for evils which are acknowledged on all hands to need healing, and the House of Commons may be induced to recognise the fact that it is not its business to supervise the discipline of the Church.

II.

Among the terms in use in the discussion of the relations of Church and State that most need scrutiny at a period of tension such as the present is the term "compact;" it is a term that is constantly used to express these complicated relations, and, even when it is not explicitly employed, there is often latent in people's minds the idea that it expresses. A statement purporting to be authoritative, has lately asserted that—

> "At the Reformation . . . the State agreed that the reformed Church should retain certain emoluments, and should have the privileges of the National Church so long as it adhered to the reformed faith and ceremonial as set forth in the Book of Common Prayer and the Thirty-nine Articles. The State on its side makes no claim whatever to alter the doctrines or the discipline of the Church, but promises to protect the Church in the possession of her endowments and privileges so long as she keeps to her part of the agreement. On the other hand the Church agreed to alter neither her doctrine nor her ritual, so long as she remained the National Church without consulta-

> tion with the State. . . . Parliament has no right whatever to interfere with Church doctrine or ritual, but it has the right on behalf of the British people, to insist that the terms of compact made in the sixteenth century be religiously observed, and to enable the Church under the changed conditions of the twentieth century to enforce them upon her members."

This statement is liable to mislead seriously any one who comes to it without a considerable fund of historical knowledge. Not merely are details of it objectionable; see for example the suggestion that the affairs of the Church of England are according to the precedent of the sixteenth century the concern of "the British people"—a phrase which is meaningless if it is not meant expressly to include Scotland and Ireland; or see again, the way in which the writer covertly gives away the whole of the point, that he wishes to make, by speaking of "the changed conditions of the twentieth century": but the whole is unhistorical in its entire fabric and tone, and especially in that it can hardly fail to convey to the mind of an innocent reader, who does not know any better, the idea, that there was at the Reformation a new compact formally made, which exists somewhere in the Archives of Church or State, and has only to be produced in order to shew up the dishonest practices of some persons unknown who have of late receded from its time-honoured provisions. This idea is of course false, and ludicrously false to anyone who has any acquaintance with the ecclesiastical history of the sixteenth century; unfortunately most people have not sufficient knowledge of the facts to prevent them from being misled, and therefore it is necessary to scrutinize closely this suggestion of a compact made between Church and State at the Reformation.

That there is a compact between Church and State no one can wish to deny; there always has been one of some sort ever since the coming of S. Augustine, and the official acceptance of the Christian religion by Anglo-Saxon kings; this is a characteristic feature of English history, and the intimate bond between the two has been one of the most powerful factors in the development of England's greatness; but, beginning thus at the dawn of the history, and being anterior to the coalescing of the separate kingdoms of the Heptarchy into the one English State, it is natural to find that the compact is all along based upon tradition. That tradition has been constantly subject to modification in one form or another, and through different agencies—the definite actions of Kings, Popes, Prelates, Synods, or Parliaments, as well as the more indefinite influences of time and change: but it subsists throughout the whole history as a mutual understanding based upon tradition.

Large modifications were no doubt made in the thirty years, from 1530 to 1560, and affecting great issues, but they touched after all but a relatively small part of the whole field of the mutual understanding between Church and State: they were, and they professed to be, a restoration of what had previously been, rather than an innovation; the Norman kings had altered the traditions of the Saxons, and each succeeding century witnessed further modifications in one or other direction in the relations of Church and State. A good instance of this continual modification of a traditional arrangement is afforded by the history of the appointment to bishoprics First, the Church fought with the Crown for the recognition of the spiritual part of the appointment, and finally came to terms which were a considerable alteration of existing

theory and practice. Then the right of canonical election was won, and very soon lost again, for the most part, because the Pope overrode the liberties of the electors. Then came the curbing of the papal power by the Statutes of Provisors; but the King, while nominally restoring their power to the electors by restraining papal interference, practically got the matter into his own hands by sending a "letter missive" directing the choice of the Chapter. And so the conflicts went on. They are a good instance of the way in which the traditional understanding of Church and State was being continually modified in the pre-Reformation days.

The Reformation changes, though theologically of quite a different calibre, are constitutionally only the successors of the foregoing. There was no new compact, but only a series of modifications of the traditional arrangement. This will be seen more clearly by considering two of the most central parts of that traditional arrangement. The first is the recognition by the State of the right of the Church, in some form or another, to meet and legislate for itself. This right, which had in earlier days been exercised in Councils, had more and more devolved upon the Convocations of the Clergy, which had originally come into existence for the purpose of clerical taxation; they had in this way been drawn into a closer analogy with Parliament, and thus, as a machinery for ecclesiastical legislation, had already become more amenable to direction from the Crown. Henry laid upon them far larger restrictions than had bound them before, by the Act for the Submission of the Clergy (25 Hen. viii. c. xix.), but it was a modification of what already existed, not a new compact; the old legislative power was to continue, but under greater restrictions.

The second instance to be taken is that of the judicial system of the Church. It was part of the immemorial constitution of the country that the Church should not merely legislate, but also exercise judicial functions for itself. Here, again, there was change, but only by way of some modification of the time-honoured state of things. The Act already mentioned forbade appeals to Rome, and with other similar legislation recovered the position of the Crown as the ultimate source of justice in causes ecclesiastical as well as civil; but, apart from this question of the Court of ultimate appeal, the whole system went on as before; there was no new compact; indeed the changes in the ecclesiastical administration of justice made in the sixteenth century by Henry were quite inconsiderable compared to those made in the early part of the nineteenth century—not to mention the more debateable changes of the middle years of the same period—which swept away with general approval the greater part of ecclesiastical suits, or transferred them to the civil courts.

Only one notable attempt was made at making a new compact to supersede the old arrangements, and it failed. This was the project of the "Reformatio Legum," a well meant endeavour to codify the Canon Law, so as to be able to start clear upon the new lines which were necessitated by the repudiation of the papal supremacy. There was certainly no sphere where it was so needful to have, if possible, a fresh start; for the papacy was so entirely interwoven into the whole fabric of the mediæval Canon Law that it seemed a hopeless task to try to eliminate it, and have any thing still left remaining. But the project came to nothing; and the reason is obvious and illuminating. The tradition was too strong; the breach with the past was

too great. If Bishops and their legal officials were still to go on administering the discipline of the Church, they must go on in the old way; and as for the difficulties and the anomalies that were bound to crop up, it must be a case of *solvitur ambulando* with them. And, even if the Puritans take it as a grievance, and decry the whole administration as inherently popish, it cannot be helped; but the civil judges must, if appealed to, support their ecclesiastical *confreres* and recognise the permanence of the old Canon Law.

There is, however, one sphere in which it seems at first sight as though a new compact may have been made. Hitherto, the State had had no reason to take any interest in all that side of Church discipline which is concerned with Services; but at the Reformation it discovered that it was worth its while to do so, not only in order to second the new enforcement of stricter uniformity, which the Church was seeking to carry out, but also in order to secure, for political reasons, the repression of dangerous dissidence. No doubt in a sense this may be called a new departure; but it would be more accurate to describe it as an extension of a principle already well recognised. The State had long been accustomed to lend its aid to enforce the discipline of the Church; this was indeed part of the traditional understanding; nothing was more suitable, according to the theory, than that the Church should appeal for the help of the State in any sphere where it found a difficulty in enforcing its discipline, and that the State should respond to the appeal. The State had thus brought its own proper terrors to bear, not only on contemners of the ecclesiastical courts in general, but also, upon special emergency, on heretics too. When once it was decided that it was important for the

Church that the diversities of rite and ceremony should yield to a new and fuller uniformity, nothing was more consonant with the old traditions than that the State should be asked to second its efforts in this department of discipline as in others; and if the State had its own reasons, too, for wishing to secure liturgical uniformity, that circumstance does not make what was done a new departure, except in the sense already limited, and certainly does not justify any one in thinking of Acts of Uniformity as forming a new compact. The more exact interpretation of the bearing of these Acts on the relations of Church and State must be left to a later stage.

Finally, it may be pointed out how entirely unlike the English position is to that of countries where there has been a definite compact formulated to be the terms of association of Church and State, or the treaty between the Pope and the secular government. There is no need to go far to seek out instances of these. In Scotland the old hierarchy was destroyed by Act of Parliament (1560), and with it went the rest of the organization and tenets of the pre-Reformation Church. A new ministry and a new organization was then set up. It was in its earlier form neither episcopal nor presbyterian, though at a later date it became first one and then the other. It was based on three documents: the Confession of Faith, the Book of Discipline, and the Book of Common Order; but the recognition of this new system on the part of the State came about only gradually. At first Parliament refused to sanction the Book of Discipline; then the Privy Council similarly refused, but allotted to the new ministry a fraction of the endowments that had once belonged to the Old Church, but had since been in lay hands. Finally, in 1567, the Parliament confirmed the Confession of Faith, made more permanent provision for the

stipends of the ministers, and declared the new organization to be the only true and holy Kirk of Jesus Christ within this realm.

For a Concordat it is natural to turn to France. After the Church had been destroyed at the Revolution, it was necessary that some steps should be taken for its restoration when happier days dawned. This was not done, as was the case at our English Restoration, by treating the recent events as null, and by merely going back to the *Status quo ante*, but a new documentary bargain was made (1801) between the Pope and the Government, called by the name which previous documents of the same sort had borne both in France and elsewhere, namely, a "Concordat."

Recent events have shewn how, even with a formal documentary bargain of this degree of definiteness, it is possible to have room for much dispute; and though it is characteristic of France to have all arrangements elaborately codified, she does not thereby escape an ecclesiastical crisis, compared to which the disturbance at home, however artfully fomented, is trifling indeed.

Our English character and our English history are alike different. We cling to the old, even when anomalous, sooner than devise an ideal new platform. It is therefore a misconception of both our national history and character to think of the Reformation as having involved a fresh compact between the Church and the State, It is true that their mutual relations were profoundly modified then; but they were undergoing continual modification before that time, and they have never ceased to undergo a continuous process of modification ever since.

It can therefore only cloud the issues to appeal to the sixteenth century as representing either a definite or a permanent compact between Church and State.

III.

ANOTHER term in constant employment in this discussion, which also needs close scrutiny, is the term State. It is far too readily assumed at the present time that that term in this connexion is only a synonym for Parliament; and there are few mistakes more fatal to the comprehension of the whole question.

According to the theory current in England in the middle of the sixteenth century, the State consists of the Crown, as the head of the body politic, with the spiritualty and the temporalty as the body; which body is divided into three estates—the Lords Spiritual, the Lords Temporal, and the Commons. Its executive is thus to be looked on as two-fold, comprising the Royal and the Parliamentary authority. Therefore, in any discussion of the relations of Church and State, the first thing necessary to enquire is this, whether by the term State is meant Crown, or Parliament, or both; and these distinctions are of primary importance. Throughout the whole of the changes in the relations of Church and State in the sixteenth century, the distinction between the relation of the Church to the Crown, and its relation to the Parliament was jealously preserved; and it is necessary to go somewhat fully into this history, in order to recover principles, which have been left too long out of sight, and to obviate a repetition in the future of blunders which have resulted in consequence.

The great Reformation changes of Henry VIII. involve these two principles: (1) that the ecclesiastical Supremacy recovered from the Pope is a Royal Supremacy, and not a Parliamentary Supremacy; (2) that all matters directly affecting the Spiritualty are rightly only to be initiated (by agreement with the Crown) in the assemblies of the Clergy.

The first of these needs only to be stated to be recognised, though it must have some further exposition before its full force is realized; the second is far more a matter of controversy, and the history that it involves is far more intricate, therefore its handling requires some fullness and much care. It will be best, therefore, to review briefly some of the chief of the changes in the relation of Church and State made in the sixteenth century, with special reference to the circumstances that bear on one or other of these points.

At the first sessions of the great Reformation Parliament of 1529, a strong anti-clerical spirit was manifested, and two Acts touching the clergy, and of an objectionable character to them, were passed. This behaviour evoked a strong remonstrance from Convocation at the breach of constitutional precedent, but one that was apparently unsuccessful. Meanwhile the Convocation went on with plans of its own for reform of abuses.

It is significant that the series of occurrences to be observed for our purpose should start with an infringement and a protest; the principle was recognised even when it was not observed: and it was the interest of the Crown as well as of the new men of the royal circle to do anything that would humble the clergy, and to reduce them to emulate the Commons in subserviency.

The sessions of 1531 did not touch the relation of Church and Parliament, but they extorted from the clergy the acknowledgment of the Royal Supremacy in terms which, though they were too gross to survive long, were considerably less objectionable than those at first propounded to the Convocation by the King. The humiliation was great, and indeed the extortion of the acknowledgment was more intended to humiliate

than to claim any novel status; but, be it observed, that the Supremacy recognised was that of the Crown, not that of the Parliament. Even in its lowest days the clergy never demeaned itself so far as to accept a Parliamentary Supremacy, though Parliament at the time was very largely composed of spiritual persons, more than half of the Upper House being prelates, and contained no one who was not a churchman and a communicant.

The year following saw the famous Submission of the Clergy, by which they bound themselves not to make new canons without the Royal assent; and it is important to notice that this serious curtailment of the former liberties of the Church was made by vote of Convocation itself, and not of Parliament. Further, it was the Convocation that took the initiative in the chief piece of ecclesiastical legislation of this date, the abolition of annates; in the lesser measures that dealt with the procedure of ecclesiastical courts, &c., there is no sign that it took action.

In 1533 began the series of enactments to abolish the jurisdiction of the Pope in England, and to secure that appeals were to be decided by the metropolitans, or, in matter that touched the King, by the Upper House of Convocation of the province. These bodies themselves meanwhile were entirely taken up with the affair of the King's divorce, and seem to have had no hand in the matter. Next year, however, they accompanied the anti-papal legislation of Parliament with declarations that the Pope ought to have no power in England; and Parliament incorporated with that legislation a confirmation of the restrictions on the legislative power of the Church, which the clergy had already accepted in their Submission.

It is unnecessary to give further details of this

reign. The rights of the clergy in their convocations to a share in legislation that affected them is recognised as a principle of the constitution, even though in these troublous times it is honoured from time to time rather in the breach than in the observance.

In the reign of Edward VI. constitutional procedure was utterly neglected, not only in this, but in many other respects. The chantries were destroyed, as the monasteries had been before them, without the clergy being asked to share the onus or the sin of the measure; and the right of election to bishoprics went without a word. The earlier liturgical reforms of the reign, like those of Henry's day, were made without any reference to Parliament; they were the result of an agreement made, not very formally, by the Church and the Crown. But when the Divines had prepared the new English Service-book, it was advisable to secure uniformity by such penalties as only an Act of Parliament could enact; and the two Acts of Uniformity were the result. Here the Church took all the initiative, and the Parliament seconded its efforts. It is clear that the second book was not submitted to Convocation, and doubtful whether the first was; but in any case the Church, in some form or another, took the lead in defining its own discipline, and only called in the aid of Parliament to reinforce what it had already decided, though clearly the first Act, to a certain extent, carried with it a restriction on the Church's part of her own liturgical freedom, since it necessitated a further Act of some sort whenever any important change was to be made.

But the Convocation did not let the constitution lapse into chaos without a bold attempt to mend matters, as far as its own privileges were concerned.

In 1547 it protested, first against the delay in the reform of canon law, which had been the project to which it had assented in the Submission of the Clergy; and secondly, against the handling of ecclesiastical matters in Parliament without consultation with itself. The protests were sadly ineffective, but at any rate they served to keep alive the memory of the true principles of action, until days when they would receive better recognition. Meanwhile the clergy were in advance of the secular legislators in passing Communion under both kinds, and in sanctioning the marriage of their Order.

In the first Parliament of Elizabeth, both the two points under consideration were raised afresh after the reaction of Mary's reign. The Act of Supremacy once again annexed to the Crown the former and legitimate visitatorial power and jurisdiction, declaring the Queen to be Supreme Governor of the Realm, as well in all spiritual or ecclesiastical things or causes as temporal. Again, it is a Royal Supremacy, and Parliament claims nothing of the sort for itself over the Church. Provision is made on new lines for the exercise of this authority; formerly Henry had used his reasserted power, as from time to time it pleased him, even to the extent of making Thomas Cromwell his Vicar-General, and using him, not only in a visitatorial capacity, but even to preside in Convocation. Now a proviso was inserted for the exercise of these functions by a person or persons to be appointed to act for the Crown by letters patent, and from that clause there arose the Ecclesiastical Commission, which came, not only to exercise the royal jurisdiction in ecclesiastical affairs, but also to a dangerous extent to supersede the more normal and regular jurisdiction of the Episcopate. It was an attempt on the part of the Crown to back up

or even stimulate the authority of the Bishops—a legitimate outcome of the Royal Supremacy, though it was misused, and thus became detested ultimately, and regarded as the synonym for all that was iniquitous.

The same Act, in touching on the question of Heresy, rehearsed the old constitutional principle for whose better recognition the Convocation had petitioned in 1547, with so little success. Among heresies, it says, such things may be reckoned as have been determined so to be "by the High Court of Parliament of this realm with the assent of the Clergy in their Convocation." The rehearsal of this is all the more valuable at this moment because, from the peculiar circumstances of the situation, it was not being acted upon in the ecclesiastical legislation that was going on. The sitting Convocation was entirely Marian in its views; this was not unnatural, considering that it was more an official than an elective body, and that the leaders of the clergy of the contrary persuasion, if not dead, were either in exile or in hiding. It was clearly useless to submit the Government's plans to such a body as this: and indeed the Government had quite enough to do to find means of carrying some of its desires through the Houses of Parliament, and in face of the unswerving opposition of the prelates there.

Thenceforward the relations of Church and Parliament are, for a long spell, of great interest. The second Parliament was opened by a speech from the Lord Keeper, Sir N. Bacon (Jan. 12, 1563), which spoke of disorders in the Church that needed amendment—want of diligence in preachers, want of attention and credit in hearers, ministers few, and some of them insufficient, laxness of discipline, that has bred loose living on the one hand, and neglect of the ornaments prescribed for worship on the other. The Bishops must see to all this;

if the Act of Uniformity is not stringent enough to force men to church, it must be made more so; if it is, let them see it executed. It would be well to have two disciplinary officers appointed for each diocese; but the chief care of all this pertains to the Lords of the Spiritualty, and they must take steps about reforms. Parliament will then join laws to their measures, not only for the more perfecting of the same, but for the maintenance as well of the heads as the ministers thereof.

It was a good exposition of the old principles, and the Bishops acted upon it. A Bill was originated by Convocation, and passed, in an enlarged form, by Parliament for securing greater efficiency in the sentence of excommunication. Two other propositions from the Convocation House were less fortunate, and were rejected.

In the next Parliament the first signs began to shew themselves of a wish on the part of some of the Commons to take the initiative in Church reform. On December 5th, 1566, a Bill was introduced into the Commons to establish the Articles of Religion, which had been newly revised by Convocation, and published with semi-official royal approval in 1563. It passed, and was sent up to the Lords on the 14th. After a single reading it was stopped there by order of the Queen, who was very angry at its introduction into the Parliament, blamed the Bishops for it, and was little mollified when they disclaimed having had a hand in the matter, but begged her to allow it to go forward.

The first attempt of an Elizabethan Parliament to take the initiative in ecclesiastical affairs was thus a complete failure; the reasons for that failure, and the motives of the Queen's action, will come out more clearly when the question comes up again in a fuller form in the next Parliament.

This measure had been the hardiest of a litter of six: the other bills had been killed at the birth; but on April 7th, 1571, the whole six were revived and presented afresh to the Commons with a new addition, and had the honour of committees and a first reading apiece. The House proceeded, however, very cautiously, feeling its ground, and gradually pushing on one after another of its bantlings, not without conference with the Lords.

Meanwhile a parallel development was taking place. Mr. Strickland made a long discourse calling attention to the superstitious blots in the Prayer Book, and to the abuses of ecclesiastical government, and complaining that authority and great livings were in the hands of known Papists—meaning no doubt, by that term, Churchmen more loyal than himself, as is the way of his sort. He concluded by asking the House to appoint committees to confer with the Lords of the Spiritualty for consideration and reformation of these matters. This was on April 6th, and a week later, on Easter Even, it was evident that this move was also progressing. Committees had been appointed in each House, and had arranged to spend Palm Sunday afternoon in conference; Secretary Smith had said cautious words in favour of consulting the Bishops on other ecclesiastical business also; Recorder Fleetwood had replied with a legal argument that such a course was unnecessary; the Queen herself had sounded a warning note in a Message that she had sent, telling the Commons to spend little time in motions, and to avoid long speeches. It was under such circumstances of encouragement alike and discouragement that Strickland introduced his Bill for the Reformation of the Prayer Book. It was well received by the House; but the Treasurer, Knollys, thought it ought to be referred to the Queen, for fear

that it might be an interference with her Prerogative; and Hatton, the Comptroller, urged definitely that the time and the place were not fit, and that such heady and hasty proceedings, contrary to and before the law, did rather hinder than help. In the end the House decided to petition the Queen for leave to proceed with the Bill. When it met again, after the recess, Mr. Strickland was not there, having been sent for by the Council in the meanwhile, and detained by its command from attending the House for infringing the Prerogative of the Queen in introducing his Bill. The Commons were at first disposed loudly to resent this development, as an invasion of their privileges, but Treasurer and Comptroller again recalled them to a truer estimate of their place. The Speaker, at the instance of the members of the Council, stopped the debate, and later on in the day Strickland was restored to his duties.

A fortnight later another rap on the knuckles was inflicted by the Crown, this time on both Houses. Their committees had gone on consulting about the group of ecclesiastical Bills, and the Bill for the Articles had reached the same stage at which its career had been checked in the previous Parliament, when the committees brought back the news that the Queen had sent a Message to express her approval of the Articles, and her intention to publish them and have them executed by the Bishops, by direction of her Highness' regal authority of Supremacy of the Church of England, and not to have the same dealt in by Parliament. In the end two only of the group of seven Bills passed into law; one was a small measure dealing with the leases of benefices, the other was the important Act, "For the ministers of the Church to be of sound religion," which was principally concerned

with exacting from certain classes of clergy that subscription to the Articles which had been already demanded in general by the simple ecclesiastical authority. Since the action of the Church had preceded the action of the State, there was no objection to be raised to this.

In the Parliament of the next year (1572) the activity of the Puritans was taken up, not with trying to subject the Church to a parliamentary discipline, for the Commons had learnt their lesson for the moment, and were not disposed again to court reproof and failure, but with trying to goad them on to the task which they were wise enough, for this occasion, to decline. The "Admonitions" represent, among other things, the protest of a section of the people against the constitutional view of the relations of Church, Crown, and Parliament, which the Crown, even more than the Church, had shewn itself determined to uphold. The Queen had had, moreover, an opportunity of restating her determination, and she had not missed it. The Parliament was only a fortnight old, and had thrice read one of two Bills concerning rites and ceremonies, when the Speaker was called upon to deliver a further Message from the Queen "that her Highness' pleasure is, that from henceforth no Bills concerning religion shall be preferred or received into this House, unless the same should be first considered and liked by the clergy." The offending Bills were delivered over to her Majesty, and she expressed openly her disapproval, especially of the first of them. After this it was not surprising that the House was on its best behaviour for the rest of the session; and not surprising also, perhaps, that the disappointment of the baffled reformers was so bitterly expressed in the "Admonitions."

From this Parliament one member went home very sore. Peter Wentworth had been one of the committees of the House who had been urgent in the matter of the Articles of Religion in the previous Parliament of 1571; he had then come into conflict with Archbishop Parker, who pointed out to the committees that it was not the province of the House to pick and choose, but to accept them *en bloc*, and "refer themselves wholly to the Bishops therein." Wentworth indignantly replied, that to do this was to make the Bishops into popes, and he would have none of it; but his protest was in vain. The new Parliament, in its earlier session, had brought him no comfort, but, on the contrary, he had seen the Crown again assert itself. In the interval of four years that had elapsed since the previous session, he had occupied himself in writing out a speech of protest against the Queen's treatment of the Parliament in matters both civil and ecclesiastical. On the first morning of the new session (Feb. 8, 1576) he delivered himself of this philippic: he was not allowed to finish it, and in the afternoon he found himself a prisoner, under examination by a committee of the House concerning his "violent and wicked words." He had complained in the first place in general of the subservience of the House to the rumours as to the wishes of the Queen, and in the second place of the Messages from the Crown "either of commanding or inhibiting, very injurious to the freedom of speech and consultation." As to the Message that Parliament "should not deal in any matters of religion, but first to receive from the Bishops," he said that it was a doleful Message, prohibiting them from dealing in God's causes, or seeking to advance His glory, and such as was bound to forfeit the blessing of God upon the work of the

session; he quoted the precedent of 1559, when the Parliament had taken the initiative, and laid at the door of the Bishops the blame of this inhibition. Besides the ecclesiastical question he had much also to complain of in the Queen's dealings with Parliament in the matter of the Queen of Scots. On the day following the committees reported adversely to the House, and he was sent as close prisoner to the Tower, where he remained over a month before he was, by the favour of the Queen, restored to his liberty and his place in the House. (March 12, 1576.)

Later on, when the House proposed to deal with the thorny subject of Discipline in the Church, it proceeded cautiously. A petition was drawn up to the Queen, and the Council was moved to take the matter up. Then a Bill was prepared and read once. A week ensued, and the Council presented the petition to the Queen, and received answer as follows:—"Her Majesty before the Parliament had a care to provide in that case of her own disposition; and at the beginning of this session her Highness had conference therein with some of the Bishops, and gave them in charge to see due reformation thereof; wherein, as Her Majesty thinketh, they will have good consideration according to her pleasure and express commandment in that behalf; and further, if the said Bishops should neglect or omit their duties therein, then Her Majesty, by her supreme power and authority over the Church of England, will speedily see such good redress therein as may satisfy the expectations of her loving subjects to their good contentation."

The same Parliament sat again early in 1581, and reverted to its petitions. In this instance, however, it did more wisely in addressing itself to the Bishops, and found some of them very willing to take up the

grievances, and join in the petition to the Queen. The Lower House of Convocation was also moving on the same subject. A considerable programme of reform was drawn up, and it seemed as if there were all the conditions ready for a successful redressing of crying evils; but the Queen was again obdurate, apparently for no other reason, except that the movement had been initiated in the Parliament; and, when pressed by the Bishops, all that she would allow was a smaller programme of reform, to be carried out solely by the episcopal authority, without Parliament having any share in it. The prevention of the larger scheme was no doubt a misfortune to the Church, but it was insisted on by the Queen in defence of the true principles of the relation of Church and Parliament, which, as was proved, by many other instances than this, were more clearly perceived and more tenaciously held by the Queen than by the Episcopate.

When the next Parliament assembled in November, 1584, the strenuous *régime* of Whitgift had taken the place of the inefficiency of Grindal. He had already done much in the way of reforming abuses, though not always in the way that was agreeable to the Puritan party, and, when the Parliament began again with its petitions for reform, it found that in many respects it had been forestalled by the action of the Archbishop, and that in others it had in him a powerful and convinced antagonist, who would not yield at all to Puritan innovations that tampered with the constitution of the Church. The days had passed when the Crown had stood alone in her defence, and a new stage of the history had opened in which the attempts at interference on the part of Parliament with the Church's liberties would soon be brought to an end. Whitgift was quite equal to making short

work of the petitions without having to invoke the aid of the Queen. Thereupon the Convocations went on their own way, and passed a very valuable set of canons, which became a real instrument of reform. When their representatives were received in audience by the Queen on February 27th, she was especially gracious to them, thanked them profusely for their subsidy, contrasting their generosity favourably with the reluctance of the Parliament. She would not suffer the reproachful speeches of the nether House against the Church, nor allow them to "meddle with matters above their capacity not pertaining to them." She did not deny that there were things that needed amendment, indeed she called attention to some of them in very clear terms, but she promised to call to account any that molested the Church in dealing with her own business, even though they are supported by some of the Council.

Parliament greatly resenting its rebuff, applied itself to ecclesiastical legislation on its own account; several ecclesiastical measures passed the Lower House, and two attained to the Upper; then the Archbishop appealed to the Crown, complaining of this action, both as being a defiance of the Queen's Messages, and as being in detail injurious to the Church. When the session was brought to an end, five days later, none of the Bills in question had passed, and the Queen smoothed over the soreness of the House by a diplomatic speech. Speaking of the fault-finders with the Order of the Clergy, she said that they might become a slander to herself and the Church, for, since God had made her its over-ruler, her negligence could not be excused, if any schisms or errors heretical were suffered. "Thus much I must say," she continued, "that some faults and negligences may

grow and be, as in all other great charges it happeneth. And what vocation without? All which if you, my Lords of the Clergy, do not amend, I mean to depose you. Look ye, therefore, well to your charges. This may be amended without heedless or open exclamations." Thus the laity were gratified by the blaming of the Bishops, while the Bishops had their way as to the main issue.

But Parliament had not yet entirely learnt its lesson. At the end of February, 1587, when the excitement over the Queen of Scots had been closed by her execution, there re-appeared in the Commons a "Bill and Book," which had already figured there twice in abortive attempts on the part of Puritan members to establish the Presbyterian Discipline in the Church, and to substitute the Genevan Service-book for the Book of Common Prayer. The introducer on this occasion was a Mr. Cope, and he asked that his documents should be read to the House. The Speaker thereupon reminded the House of the previous commands that had come from the Queen not to meddle with this matter, and desired that Mr. Cope's request should be refused on that account. A discussion ensued between those who were in favour of the reading and those that opposed it, and this occupied the whole of the rest of the sitting, so that when the House rose, nothing had been decided. At its close the Queen sent for the documents, together with similar ones that had been exhibited on previous occasions, and the next day had an interview with the Speaker, which prevented the meeting of the House. On the third day (March 1st) Mr. Wentworth's wrath was again at boiling point, and he came to the House armed with a speech and eight pointed questions as to the rights of free speech, the privileges

of the Parliament, and the powers of the Speaker; his demand, that they should be read as an introduction to his speech, was met by a reminder on the part of the the Speaker, that it was better to wait until the Queen's pleasure was known with regard to the Bill and Book; and when he persisted in his demand, the Speaker took his papers to peruse first; having done so he "pocketted them up and shewed them to Sir T. Heneage, who so handled the matter that Mr. Wentworth went to the Tower, and the questions not at all moved." The Queen again sent for the Speaker, and so closed the sitting, and on the following day Mr. Cope and three of his supporters went to share Wentworth's fate. When a petition was mooted in Parliament for the restoration of the imprisoned members, the Vice-Chamberlain spoke at length, justifying the Queen's action, and explaining the obnoxious character of the proposals made. Shortly afterwards a motion was made for an appeal to her Majesty to redress disorders in the ministry, and further steps were taken to secure the release of the prisoners; while a more bold step still was taken in petitioning the Queen on behalf of the Presbyterian "Platform," and the whole scheme of the Puritan revolution. Her reply to this was as uncompromising as ever; she is satisfied with the present reformation, and considers the objections raised against it to be frivolous; the substitute proposed is prejudicial from many points of view; even if there are abuses, continual legislation about them is undesirable, and "it appertaineth to the clergy more properly to see the same redressed." Moreover, the petition is an infringement of the prerogative of the Crown, and the supremacy in Church causes now annexed to the imperial Crown of this realm.

When an attempt was made in the following

Parliament, by Mr. Damport, to criticise the action of the Bishops and their administration of ecclesiastical government (Feb. 25, 1589), he was at once reminded that the session had been begun with an inhibition from the Queen, warning the Parliament not to deal with ecclesiastical causes, and the matter was at once dropped.

A similar warning was given to the new Speaker, Sir E. Coke, at the beginning of the Parliament of 1593. "Mr. Speaker, her Majesty's pleasure is that if you perceive any idle heads . . . which will meddle with reforming the Church and transforming the Commonwealth, and do exhibit any Bills to such purpose, that you receive them not until they be viewed and considered by those, who it is fitter should consider of such things and can better judge of them." The warning was not superfluous: a week had not passed before Mr. Morrice complained in the Commons of the stringency of the episcopal discipline, and produced two Bills intended to restrain it. In the debate which followed, some discussed the questions on their merits, others confined themselves to pointing out the danger of taking them up in defiance of the Queen's Messages. In the end the Speaker took the Bills unread to peruse, and in the same afternoon he was sent for to Court, and charged with a new Message which he delivered on the day following, to the effect that Parliament had been summoned for other purposes, and had been specially warned at the opening not to intrude into ecclesiastical causes, and therefore that no such Bills were to be exhibited or read.

It is merely the same story once again: the only fresh interest in this case is, that the mouthpiece on this occasion was the great constitutional lawyer, Sir E. Coke.

When Mr. Finch offered a Bill to the next Parliament (Dec. 3, 1597), to reform disorders touching Ministers of the Church, no attention was paid to his offer. So with this rapid *diminuendo* ended the attempt of a Puritan section of Parliament to secure for itself a power of control over the Church, at least so far as the Elizabethan Settlement of Religion is concerned.

It is no part of the present task to pursue the history in detail from Parliament to Parliament through the seventeenth century. It has been enough to shew what are the principles that underlie the relation of Church and Parliament, as defined in the era of the Reformation; and to remind the present generation that in the constitutional system of England the Parliament has no initiative in ecclesiastical affairs, and that it legislates in such matters only when the initiative has been taken by the clergy.

It is, however, worth while to call attention to two broad facts of the seventeenth century which reinforce this point, otherwise it might be supposed that the relation between Church, Crown, and Parliament, which has been revealed by the Elizabethan history, was one of the features of the constitution, which were transformed by the changes of the succeeding century. At the Rebellion, when the Parliament usurped a new position, and destroyed for the time the orderly constitution of the realm, its treatment of the Church was all of a piece with the rest, and the successors of the Puritan faction of Elizabeth's day did not rest until they had not merely got control of the Church, but had first transformed it, and then abolished it as a part of the English constitution. The movements that had been abortive in the previous century now produced their results; and it is possible for all to

see what the results involved in such a revolution were, and the wisdom of the Elizabethan policy which staved off such results.

These results, however, were not lasting, and the Restoration marks the return to the old principles, in this respect as in so many others. The new Act of Uniformity exemplified the recovery of the old principles of the alliance of Church and State: indeed the most scrupulous care was taken to secure the liberties of the Church in this very crucial moment. The initiative was taken by Convocation; when it had produced its book the King sent it to Parliament; Parliament received it as the form already agreed upon by the Church and Crown. The Commons asserted their right of discussing the changes made by Convocation in the book, for it had come within their competence through having been already authorized by the Elizabethan Act of Uniformity; but they decided not to exercise it, and accepted the changes *en bloc;* even the correction of clerical errors was not made without reference to the Convocation, so scrupulous was the care taken not to infringe the ancient terms of alliance.

IV.

The question now rises as to the meaning of Acts of Uniformity; for clearly these have a special bearing upon the relation of Church and Parliament. On the one side clericalism may be inclined to argue that they are a mere civil enactment which does not bind the Church, while anti-clericalism or erastianism might attempt to reply that they are the directions given by the State to the Church as to the method that it is to employ in its public worship; between these two

extreme statements there is a large field for other intermediate views.

In examining the question it is important first to notice that uniformity in worship is a thing with which, ordinarily speaking, a State does not concern itself; if it does so, it is because some exceptional circumstances force it to take an exceptional course. Throughout the greater part of the history of the Church of England, the State has had no interest in the matter; even in 1542, when the civil control of the Established Church was more oppressive than it had ever been since Saxon times, or has ever been since, the Church made great moves in the direction of liturgical uniformity without the Parliament interesting itself in the matter at all. But when the reign of Edward came, and greater liturgical changes were prepared by the Church, the State saw that it was to its own interest that the new Services should be universally accepted; and, therefore, Parliament enforced the substitution of the English Book for the Latin Books by severe civil penalties. It was a State necessity that no other Services should be allowed, and the State felt it to be now as essential for it to secure this beforehand by adding the sanction of a penal Act to the liturgical innovations prepared by the clergy, as it was to secure quiet afterwards by repressing the Cornish rebels, who rose in favour of the restoration of the superseded Latin rites. The frontier between the provinces of Church and State was, in these instances, not respected in as careful a fashion as was right, for Edward's days were days of increasing anarchy. But in spite of irregularities, it is clear, even with regard to the Edwardine Acts, that their purport was to accept at the hands of the Church and Crown a certain set of Services, and to secure that these should be adopted, not only in

deference to the ecclesiastical authority which promulgated the Book, but also from fear of the civil penalties which Parliament thought well to enact against offenders.

The case of the Elizabethan Act is in some ways clearer still, though in other respects it is more irregular. Liturgical uniformity was more than ever a political necessity, and, therefore, Parliament was bound to hasten at once to secure it. The existing Convocation was entirely hostile, but the State could not afford to take that into account, or even to wait till the Convocation was altered in temper by the revulsion of feeling against the Marian religion which was spreading through the country. Parliament was forced by stress of circumstances to act unconstitutionally, and to decide for itself on a standard of liturgical uniformity. The varied temper of the House made this a very difficult task. Some thought the recent Prayer Book too much of an innovation, and some too little, and this difference of opinion in the House was but a reflection of the divergence of feeling outside. Eventually it seemed best, all things considered, to fix upon the last Prayer Book, modified by as few changes as possible, to be the standard, and to enact the measure which gave it authority with as little delay as might be, in order to forestall conflicts and even rebellions which were bound to ensue, unless some such strong enforcement of uniformity were effected.

This Act, therefore, represents a purely civil enactment; it was a violation of the tradition of the alliance of Church and State—as indeed its authors were the first to acknowledge—but it was to be justified by the exceptional circumstances of the time.

The Church had no initiative in the matter, but she accepted the parliamentary Act, and accepted it all the

more readily because the Act did not hamper her own action. The Book, which she actually used, never did correspond exactly with the Book authorized by the Act, and as time went on, the Church allowed the divergence to become greater. The royal order for wafer bread modified one rubric, and the episcopal directions concerning ornaments modified another. Further changes of a like sort followed, so that it soon came to pass that the Uniformity Act was in fact enforcing, not the system of worship laid down by its provisions, but that system as altered by subsequent non-Parliamentary changes. The non-conforming Puritans saw this clearly, and complained of it bitterly. "This Book on whose account we suffer," they said in effect, "is not the Book ordered by the Act. Why should we be punished for not wearing the surplice, while others who equally do not wear other ornaments prescribed by the Act are left unmolested?" Such arguments fell on deaf ears, and for this very good reason, that the authorities, both civil and ecclesiastical, knew very well that the purpose of the legislation was not to prescribe a Parliamentary system of worship, or even to hold the Church to any particular bargain in respect of its Services, but simply to lend civil support to the power of the ecclesiastical rulers for the enforcement of that system which the Crown and Church agreed to be desirable.

Thus the Elizabethan Act of Uniformity, although it began with great irregularities, ended by bringing out into relief the real principle that underlies such Acts. They are not bonds to bind the Church, or fetter its governors so that they cannot freely exercise their authority; nor even are they necessarily a stringent compact entered into by Church and State for the settlement of all ritual questions: they represent

the civil and penal sanction which Parliament, for its own reasons under particular circumstances, has thought wise to give to the Church's system, while leaving her considerable latitude to modify or add to that system in detail without hindrance.

The Uniformity Act of 1662 has already been treated, and it has been pointed out with what scrupulous delicacy the frontier of Church and State was respected. The principle of the legislation was, as before, that it added civil and penal sanction to the Church's system of worship without curtailing her liturgical liberties: it bound not Church authority, but only impugners of Church authority.

When the various measures became law which introduced Toleration and Emancipation, they, in a very large degree, amounted to a repeal of the Acts of Uniformity and other Acts like them which had insisted upon conformity: thenceforward Recusants and Sectaries—two of the classes penalized by these Acts—were allowed to go their own way. In so far, however, as these measures were directed against non-conforming clergy of the Church, their provisions were not abrogated; and in so far as they survive now upon the Statute Book, they still perpetuate civil penalties against those who, in open prayer, refuse to use the Prayer Book or substitute for it some other and unauthorized form.

V.

In the nineteenth century it was considered necessary to pass an Act of Uniformity Amendment Act, in order to authorize Shortened forms of Morning and Evening Prayer, and Additional Services (1872). This step shews how the nature of the compact

between Church and State embodied in an Act of Uniformity had at the time been forgotten. Both Shortened forms of Prayer and Additional Services had been in use from the day when the last Act of Uniformity had been passed; and no one then supposed that such use was any infringement of the Act, or was anything else indeed but the legitimate exercise by Church authority of a liturgical right which it still retained, the Act of Uniformity notwithstanding. But the old cordiality had died down in the winter of the early years of the century, and the latter years of the previous century. The traditions had been lost, and a new and rigid legalism had taken their place, which took every opportunity of surrendering the Church's liberties, and transforming her ancient alliance into a novel bondage.

The beginnings of this disastrous change had manifested themselves long before 1872; indeed the tendency was characteristic of the century, and is traceable only too plainly in a series of misguided ecclesiastical enactments. The series began with the Act of 1832, which, by a mere piece of bungling, destroyed the Final Court of ecclesiastical appeal, and attempted, without the consent of the Church, to make the Court of the Privy Council into an ecclesiastical court. The authors of this change little foresaw the confusion that would result from their inadvertence; but it is not too much to say that this ill-advised action on the part of Parliament has not only flagrantly broken the best traditions of the alliance of Church and State, but has also thrown the whole judicial system of the Church into confusion, and is responsible in the highest degree for the present paralysis of coercive discipline. The knowledge that every appeal will go to this Court invalidates in the eyes of a large and ever increasing

body of churchmen the action of every ecclesiastical court. The fact that other courts are held to be bound by its decisions has robbed the true courts, diocesan and provincial, of any power to set matters straight; while the actual decisions given by the Privy Council have not been of a kind either to restore or to create confidence by any intrinsic merits of their own, but, on the contrary, they are discredited in the eyes of the public, and are in practice disregarded by almost the whole of the clergy, from the Bishops downward; and even by those who would not, on principle, dispute the competence of the Court.

Next, in 1840, Parliament was so far forgetful of its place and of the ancient terms of alliance with the Church as to pass a Discipline Act for the Church on its own initiative, thus infringing what we have seen to be the time-honoured provisions of the Constitution. That this was possible is only a further sign of that aggressive tendency which has already been alluded to as characteristic of the time. Though this was no proper Church measure, a number of Bishops used the powers, which even this Act was careful to retain in their hands, and from 1845 to 1874 a number of prosecutions were the result. The proceedings began in the proper Episcopal Courts, but the appeals went to the Privy Council. In some cases the clergy refused to appear or to recognise that Court. Moreover, the judgements were so contradictory, and appeared to many to be so prejudiced, that more harm was done than good. The chaos introduced by the unfortunate action of Parliament was only made worse by the efforts of civilians unversed in Ecclesiastical Law and liturgical and historical science.

In order to cover this failure, Parliament, at the instance of Archbishop Tait, passed in 1874 a new

Act, intended to deal more summarily with offenders. This, the Public Worship Regulation Act, increased the facilities for prosecution, diminished the part of the Bishop in any proceedings, but reserved to him a veto, appointed a new judge to a very anomalous position for the moment, but with the prospect of his becoming the judge of both Provincial Courts. A fresh outbreak of prosecutions ensued; Lord Penzance, the first judge appointed under the Act, refused to qualify as an ecclesiastical judge according to the Canons, and for this, as well as other reasons, a large proportion of churchmen refused to recognise him or his court. The prosecutions went on, and became more and more of a scandal and a farce, till after twelve years of ill success they ceased. The prosecuting party was too ill supported to be able to go on prosecuting, the public was scandalized, partly by the impotence of the novel system, and partly by its success in some instances in imprisoning loyal and devoted clergy. The whole of this Parliamentary action had outraged the consciences of many, and raised the scorn of more; the men that were supposed to be lawbreakers had been proved, in some respects, to be more law-abiding than their persecutors; and, as prejudice died down, and the questions at issue began to have a more learned and impartial hearing, the tide turned, and the persecuting party began to realize that, if it went on, the laugh would very soon be on the other side.

The nett result of these Acts of Parliament has been to reduce the system of Ecclesiastical Courts to chaos, and to paralyze Church discipline. No other result could well have been expected, seeing that the whole was done in defiance of the true principles of the relation of Church and State.

Since the cessation of the ritual suits against Priests

two or three things have happened that bring out, more clearly still than the failure of the legislation, the truth of this contention that it was grounded on false principles. The first point is, that in these years there has been a growing conviction that the judgements of the Privy Council were, in fact, erroneous, and a growing disregard of them. Its view of the Ornaments Rubric is set aside, not only by the thousands of clergy who wear the Eucharistic vestments, but also by the still larger number—amounting probably to ninety per cent. or ninety-five per cent. of the whole body—who wear stoles, either black or coloured; and not only by the clergy, but by the bulk of the laity who support them in this disregard of the finding of the Court.

Secondly, the history of the "Lincoln Judgement," delivered by Archbishop Benson in 1890, is a further proof that the turn of the tide had come, and that the tide of aggressive legalism had begun to ebb. The Privy Council pronounced in favour of the competence of the Archbishop to hear the case in his own Court, though there was little precedent to be quoted for such a course, and it depended on those very Church principles which recently had met with but scanty recognition. Thereupon the Primate decided to hear the case, welcoming especially the opportunity of a suit that need not be vitiated in the eyes of Churchmen by its being of a piece with the ecclesiastical chaos created by Parliament. The pleas were heard independently of the decisions of the Privy Council, and the Judgement was pronounced independently of it: and the widespread satisfaction that this method of handling the matter caused was in itself proof of a widespread dissatisfaction with the state of things which the legislation of 1832, 1840, and 1874 had created. If further proof were needed, it is forthcoming in the fact that,

when an appeal was made by the prosecutors to the Privy Council, it excited comparatively little interest: the general public was inclined to regard the Archbishop's Judgement as having much more authority and finality about it than any Privy Council Judgement on such matters was likely to have: while those who were interested in the appeal belonged to the smaller circle of specialists who were only curious to see how far the Privy Council would go in deferring to the Judgement which it was nominally called upon to revise!

A third sign of the turn of the tide lies in the history of the passing of the Clergy Discipline Act of 1892. The Archbishop had made strenuous and successful efforts to get a Bill through Parliament to enable the Bishops to deal more summarily with criminous clergy: when, almost beyond belief, there was a real hope of its passing, the question arose as to the action of the Church in the matter. Convocation has repeatedly agreed to the principle, but this was not enough, if the measure was to proceed on the right lines, and the principles of the relation of Church and State were to be once again respected. In face, therefore, of much opposition from officials, though with the help and support of statesmen of the better sort, the Archbishop insisted on procuring Letters of Business for the Convocations, and on passing there a canon to the same effect as the Bill in Parliament. The action of the Church thus once again preceded the action of the Parliament in the matter, according to the old principles of the Constitution. A new and brighter era had begun, and Parliament had begun again to realize in the disciplinary sphere the truth which it had recently recognised in the liturgical sphere in the legislation

of 1871 and 1872, viz., that the initiative in such matters belongs to the Church rather than to itself.

VI.

Does Parliament seriously contemplate going back upon this at the beginning of the twentieth century? It would seem incredible, were it not that there is always a jealousy of Convocation in the parliamentary breast, that there is a strong Erastian body, a strong anti-clerical body, and a strong nonconformist section ready to unite against the rights and liberties of the Church; and were it not that there is actual evidence of this recrudescence in the fact that two private "Discipline Bills" have passed a second reading.

We have already in the first chapter considered the circumstances of the hour which account for this recrudescence, and also tried to estimate the amount of good reason that there is for the demand for better discipline in the Church, as well as to distinguish that sober and reasonable demand from the heated and panic-stricken state into which some minds have been thrown by a trend of ecclesiastical affairs which they are unable to understand; not because it is at all unintelligible, but only because they have not the requisites for forming a sober judgement upon it.

Let it be granted by all means that all is not satisfactory in the present ecclesiastical position. Let it be granted that there is a need of better facilities for Discipline. The point at issue is not as to the existence of such a state of things, but as to—(1) the true estimate of the magnitude and character of the evil: and (2) the proper way of redressing it.

As to the first of these. There can be little doubt that the want of discipline at the upper end of the

scale of churchmanship has been greatly exaggerated, while the want at the lower end has been greatly understated. It is commonly said in defence of this prevalent onesidedness that, because the upper end is the progressive end, there is more need of a curb for the head than of a stick for the tail. It is possible that this may be true as a statement of policy; but it is not so much policy that is in question as justice and truth; and these demand that defaulters at the lower end should have their fair share of blame.

Is it, however, so certain that, as a matter of policy, it is right to seek to discipline the ritualist rather than the latitudinarian or the puritan? Is it true, after all, that denial of the faith does less harm than ceremonial indiscretions or extravagances? Is the priest who deprives his people of many of their Services, mutilates many of those that he provides, and withholds from his flock the opportunities for confession and communion which their Prayer Book gives them a right to expect, less criminal than the priest who obtrudes confession on unwilling ears, or even supplies Additional Services which run beyond the likings of his people, or even the sanction of his Bishop?

The ecclesiastical situation cannot be understood without a recognition of the fact that the upper end of the scale is smarting from a sense of unjust treatment in this respect; and that, where men have gone into extravagancies, it has often been due to their feeling that in any case they despaired of having justice done to their point of view, after two or three generations of continual misrepresentation and injustice. Further, this is the reason why many less advanced men will not dissociate themselves from the more extreme men, though they regret their extravagancies; they feel that, until justice is done to the tenets which

they share with them, they must stand shoulder to shoulder with them, even at the cost of sharing the blame of a few things which they themselves disapprove. It is of no use to appeal to "old tractarians" to desert the ritualists, or to "the historic high Church party" to throw over the "Catholics." Until the rights have been secured, which are alike dear to both sections, there will continue to be alliance between them; in other words, if extreme views are to be repressed, moderate views must be more justly judged, and more generously welcomed.

Among the points on which these two sections are agreed, and in urging which they will not be divided, are these points now under consideration—the stickling for the right relation of Church to Parliament, the refusal of the Privy Council as an Ecclesiastical Court, the repudiation of a bastard church discipline, and the like. The hopeful way, therefore, of dealing with the present situation is not by repeating the blunders of the middle of the last century, and making another attempt at exercising a Parliamentary Church discipline. The whole of the history that we have reviewed shews this to be an expedient which is indefensible in theory and ineffective in practice. Rather it is by recognising that the contentions of high churchmen were just: that the recovery of true principles in the Discipline Act of 1892 was a valuable recovery, and forms a precedent that ought to be carefully followed in any future Acts of a similar character: that the essential first step in the recovery of the system of ecclesiastical discipline is the readjustment of the judicial system by the establishment with consent of the Church of a proper final Court of Ecclesiastical Appeal: that if Parliament is dissatisfied with the Convocations as being unsuitable or

inadequate representatives of the Church, it should, at least, recognise that they are better representatives of her than the modern Parliament is, now that it combines Scotch and Irish members as well as English, and those no longer necessarily churchmen or even christian: that, if they are inadequate, it is not the fault of the Church, which has been now for a long time trying to effect a reform, and has so far been hindered by the Government: that if episcopal control is insufficient, this is due to a large degree to the unwieldly size of dioceses, and this can hardly be made a fair matter of reproach by a Parliament which has let so large a part of its lifetime slip away without making any serious attempt to pass the Southwark Diocese Bill. Behaviour of this sort gives a strong Pecksniffian flavour to the protests that are from time to time emitted in the Commons with regard to the "crisis in the Church," and it would be far better if such protests ceased, and something were done to extricate the Church from the quandary into which the ineptitude of past Parliaments has landed it.

When the legislative system of the Church has been set in order by a recognition of the true principles of ecclesiastical legislation and by a reform of the Convocations, and the judicial system has been rescued from chaos by the establishment of a proper Court of Final Appeal, the Church will have two things essential to the efficiency of any body, both of which it now lacks, viz., the power to formulate its own opinion, and the power to enforce its decisions on its own members. There is no other self-respecting institution in the kingdom that would be allowed to be so crippled, bound, insulted, and scoffed at, as is the case with the Catholic Church of this country. This state of things cannot continue much longer; and if freedom is to be

purchased only at the cost of Disestablishment, the present situation is rapidly multiplying the number of churchmen who are prepared, not only to tolerate it, but to demand it, as a measure, which may be indeed a very bad bargain for the State, but has become imperative for the welfare of the Church.

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